

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

Billy Rogers,

Case No.: 1:11-cv-698

Plaintiff,

v.

Judge Michael R. Barrett

Warden Kerns, et al,

Defendants.

ORDER

This matter is before the Court on the Report and Recommendation ("Report") filed by Magistrate Judge J. Gregory Wehrman on December 21, 2011 (Doc. 15). Proper notice has been given to the parties under Rule 72(b) of the Federal Rules of Civil Procedure including notice that the parties would waive further appeal if they failed to file objections to the Report in a timely manner. (Doc. 15, 4); *see United States v. Walters*, 638 F.2d 947, 949–50 (6th Cir. 1981). No objection has been filed.

Although proper notice was served upon Plaintiff, it was returned as undeliverable due to Plaintiff's failure to apprise the Court of his change of address. (Doc. 16.) By failing to keep the Court informed of his current address, Plaintiff demonstrates a lack of prosecution of his action. *See, e.g., Theede v. U.S. Dep't. of Labor*, 172 F.3d 1262, 1265 (10th Cir. 1999) (holding that failure to object to a magistrate judge's report and recommendation because of party's failure to bring to the court's attention a change in address constitutes failure to object in a timely manner, and holding that because the report was mailed to the last known address, it was properly served and party waived right to appellate review); *see also Jourdan v. Jabe*,

951 F.2d 108, 110 (6th Cir. 1991) (holding that a pro se litigant has an affirmative duty to diligently pursue the prosecution of his cause of action); *Barber v. Runyon*, No. 93-6318, 1994 WL 163765, at *1 (6th Cir. May 2, 1994) (holding that a pro se litigant has a duty to supply the court with notice of any and all changes in his address). This is result is especially compelling (and perhaps expected) given that the Report recommends that this action be dismissed for lack of prosecution. (Doc. 15, 2-3.)

Having reviewed this matter de novo, this Court finds the Report to be correct. Accordingly, it is **ORDERED** that the Report is hereby **ADOPTED**. As the Report recommends (Doc. 15, 2-3), and for the reasons stated therein, this action is **DISMISSED** for lack of prosecution.

IT IS SO ORDERED.

s/Michael R. Barrett
United States District Judge